

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

v

File No. 120648-001

**Guardian Life Insurance Company
of America**

Respondent

**Issued and entered
this 28th day of September 2011
by R. Kevin Clinton
Commissioner**

ORDER

I. PROCEDURAL BACKGROUND

On May 2, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.*

The Commissioner immediately notified the Guardian Life Insurance Company of America (Guardian) of the external review and requested the information used in making its adverse determination. After a preliminary review of the material submitted the Commissioner accepted the case on May 9, 2011.

Because medical issues are involved, the Commissioner assigned the case to an independent review organization which provided its analysis and recommendations on June 7, 2011.

II. FACTUAL BACKGROUND

The Petitioner is covered under a group dental plan that is underwritten by Guardian. Her benefits are defined in a plan benefit document that serves as a certificate of coverage (the certificate).

In December 2010 the Petitioner had crowns placed on teeth #8 and #9. In January 2011 she had crowns placed on teeth #7 and #10. Guardian denied coverage for all four crowns on the basis the teeth did not appear to have decay or an injury that necessitated a crown.

The Petitioner appealed Guardian's denial through its internal grievance procedure. Guardian upheld its determination and issued its final adverse determination dated March 29, 2011.

III. ISSUE

Did Guardian correctly deny coverage for the Petitioner's crowns?

IV. ANALYSIS

Petitioner's Argument

The Petitioner argues that the four crowns were medically necessary because her teeth were fractured. Her dentist wrote to Guardian in a letter dated February 21, 2011:

Tooth #7, 8, 9, 10 presented with incisal-facial fractures. Due to heavy occlusal forces porcelain crowns were indicated to support remaining tooth structure.

Respondent's Argument

In its March 29, 2011, final adverse determination Guardian gave its reasons for denying coverage for the crowns:

On 02/28/11 your claim for the crowns on [teeth] #07 08 09 10, was received. Coverage for these services was denied. A licensed dentist has reviewed the clinical information submitted and determined that these teeth do [*sic*] not appear to have decay or injury. The dental plan only covers crowns, inlays, onlays and veneers when needed due to decay or injury and when the tooth cannot be restored with a routine filling.

Guardian concluded that the Petitioner did not meet the criteria for coverage for crowns.

Commissioner's Review

The certificate (p. 121), under "Major Restorative Services," limits coverage for the placement of crowns:

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or *injury*, and only when the tooth cannot be restored with amalgam or composite filling material. . . .

The question of whether it was medically (i.e., dentally) necessary to place crowns on teeth #7, 8, 9, and 10 was presented to an independent organization (IRO) for review. The IRO reviewer assigned to this case is a licensed dentist, a member of the American Dental Society, and in active clinical practice. The IRO reviewer concluded:

The clinical records supporting the [Petitioner's] appeal consist of three (3) periapical radiographs. The radiographs show no restorations, endodontic treatment, carious lesions or periodontal disease present in the four (4) maxillary incisors. The radiographs show no dental pathology present. That there may be incisal wear or fractures present may be true but it is not evident on the radiographs.

Records such as color photographs or mounted models were not included for review. Also not included in the review are any clinical notes documenting a chief complaint about the incisors or documentation of any symptom relating to fractured teeth such as pain or cold sensitivity. The provider writes in his letter to Guardian that, "Due to heavy occlusal forces porcelain crown were indicated to support remaining tooth structure." What these heavy occlusal forces are and how the forces are to be managed is not addressed in his letter.

Guardian's Health Plan Information clearly states 'Crowns . . .are covered only when needed because of decay or injury.' These processes were not found in the documentation submitted for review. Therefore, per the case documentation and the standard of care, crowns for teeth # 7, 8, 9, and 10, are not medically necessary for [the Petitioner].

The Commissioner is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on experience, expertise, and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner finds that Guardian's denial of coverage for crowns the Petitioner received on teeth #7, 8, 9, and 10 was consistent with the criteria of the certificate.

V. ORDER

The Commissioner upholds Guardian Life Insurance Company of America's March 29, 2011, final adverse determination. Guardian is not responsible for covering the crowns on teeth #7, #8, #9, and #10.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.